

Appl. No. : 10/017,753
Filed : December 11, 2001

REMARKS

Prior to examination, and in response to the Office Action mailed September 16, 2003, Applicant respectfully requests the Examiner to consider the above-captioned patent application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-6 remain pending. Claims 7-8 have been cancelled without prejudice or disclaimer, and Claims 1-6 have been amended.

In the Office Action mailed September 16, 2003, the Examiner disposed of the claims as follows:

CLAIM NOS.	DISPOSITION		
	BASIS	PRIMARY REFERENCE	SECONDARY REFERENCE(S)
1-4	103(a)	Turley US 4,892,543	n/a
1, 4	102(e)	Cumming US 6,197,059	n/a
1-8	103(a)	Green US 6,558,420	n/a
1, 4	102(b)	Israel WO 99/03427	n/a

Rejections Over Turley

Claims 1-4 stand rejected as obvious over Turley, US 4,892,543. Applicant has amended Claims 1 and 4 in a manner which is believed to obviate the Examiner's rejections over Turley. For example, amended Claim 1 recites:

1. (CURRENTLY AMENDED) An accommodating intraocular lens for implantation in an eye having an optical axis, said lens comprising:
 - an anterior portion comprising:
 - an anterior viewing element having a periphery and comprised of an optic having refractive power;
 - an anterior biasing element comprising at least one anterior translation member attached to first and second spaced attachment areas at the periphery of said anterior viewing element, each of said first and second attachment areas having a thickness in a direction substantially perpendicular to said periphery and a width in a direction substantially parallel to said periphery, the ratio of said width to said thickness being equal to or greater than 3;
 - and
 - a posterior portion comprising:
 - a posterior viewing element having a periphery, said posterior viewing element in spaced relationship to said anterior viewing element;
 - a posterior biasing element comprising at least one posterior translation member attached to the posterior viewing element;

Appl. No. : 10/017,753
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said anterior translation member and said posterior translation member meeting at an apex of said intraocular lens, such that force on said anterior portion and said posterior portion causes relative movement of said viewing elements between an accommodated state and an unaccommodated state, said viewing elements being separated when in the accommodated state.

Applicant respectfully submits that amended Claim 1 is in condition for allowance over Turley, as Turley fails to disclose or suggest, for example, "viewing elements [which are] separated when in the accommodated state." In fact, Turley teaches the opposite of such a configuration, disclosing a lens element 46 and chamber 90 which are pressed together when in the accommodated state, thereby altering the shape of the chamber 90. See Turley at Fig. 6; col. 2:38-41; col. 4:39-64.

Applicant further submits that Claim 4 is allowable over the Turley patent. For example, Claim 4 now recites, inter alia, that "said viewing elements are biased toward said accommodated state." This is the opposite of Turley's teaching of a lens element 46 and chamber 90 that are biased toward the unaccommodated state. See Turley at col. 4:39-64; col. 5:5-9.

Rejections Over Cumming

Claims 1 and 4 stand rejected as anticipated by Cumming, US 6,197,059. However, Applicant respectfully submits that Cumming does not anticipate Claims 1 or 4, whether in their original or amended form. Cumming fails to clearly disclose, for example, "first and second attachment areas having a thickness in a direction substantially perpendicular to said periphery and a width in a direction substantially parallel to said periphery, the ratio of said width to said thickness being equal to or greater than 3." In the Cumming patent, the relevant "thickness" is nowhere disclosed, as none of the sectional or perspective views (e.g., Figs 57-63) appear to depict the thickness of the haptic plates 1304 or haptics 1356, at the optic periphery or at any other location.

Rejections Over Green

Claims 1-8 stand rejected as obvious over Green, US 6,558,420. Applicant nonetheless submits that Green does not render obvious the combinations of features recited in Claims 1 or 4, whether in their original or amended form. In rejecting these Claims over Green, the Examiner

Appl. No. : 10/017,753
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cites a portion of the patent that does not pertain to the configuration of the "central portions 62" at the periphery of the viewing element, as claimed. The cited passage (col. 6:22-27) refers instead to the configuration of the central portions 62 at a location spaced from the periphery (see planes 46-46 and 48-48 in Figs. 3, 5-11). In addition, the Figures depict the portions 62 as having different dimensions at or near the periphery, than at the location referred to in the passage cited by the Examiner. See Figs. 2, 3, 5-8, 10, 11. The Green patent therefore cannot be read as suggesting any particular configuration at the optic periphery, much less that claimed by Applicant.

Rejections Over Israel

Claims 1 and 4 stand rejected as anticipated by Israel, WO 99/03427. Applicant respectfully submits that Israel fails to teach all of the limitations of Claims 1 or 4, whether in their original or amended form. Israel fails to clearly disclose, for example, "first and second attachment areas having a thickness in a direction substantially perpendicular to said periphery and a width in a direction substantially parallel to said periphery, the ratio of said width to said thickness being equal to or greater than 3." Inspection of the cited Figures 5A and 5B reveals that Israel actually depicts an aspect ratio of no more than about 2:1 at the optic periphery. In addition, there would be no motivation to increase the aspect ratio at the periphery because Israel teaches the use of relatively thin portions to provide flexibility above and below the attachments to the periphery (see Fig. 5B, Figs. 6A-6E), making the configuration at the periphery irrelevant to the motion of the arms.

Request for Continued Examination

Applicant submits herewith a Request for Continued Examination of the present application.

Supplemental Information Disclosure Statement

Applicant submits herewith a Supplemental Information Disclosure Statement citing an additional copending application for consideration by the Examiner.

Appl. No. : 10/017,753
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Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments, deletions and cancellations have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments, deletions and cancellations are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Mark J. Kertz at (949) 721-6318 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: Jan. 16, 2004

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